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8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

10 DUNCAN K ROBERTSON,

11 Plaintiff,

12 v.

13 GMAC MORTGAGE LLC,

14 Defendant.

CASE NO. C12-2017-MJP

ORDER DENYING MOTION TO
RECUSE

15
16 This matter comes before the Court on Plaintiff Duncan Robertson's motion to recuse
17 (Dkt. No. 164.) Having reviewed the motion and all related papers, the Court DENIES the
18 motion to recuse.

19 **Discussion**

20 Pursuant to 28 U.S.C. § 455(a), a judge of the United States shall disqualify himself in
21 any proceeding in which his impartiality "might reasonably be questioned." A federal judge
22 also shall disqualify himself in circumstances where he has a personal bias or prejudice
23 concerning a party or personal knowledge of disputed evidentiary facts concerning the
24 proceeding. 28 U.S.C. § 455(b)(1).

1 Under both 28 U.S.C. §144 and 28 U.S.C. § 455, recusal of a federal judge is appropriate
2 if “a reasonable person with knowledge of all the facts would conclude that the judge’s
3 impartiality might reasonably be questioned.” Yagman v. Republic Insurance, 987 F.2d 622, 626
4 (9th Cir. 1993). This is an objective inquiry concerned with whether there is the appearance of
5 bias, not whether there is bias in fact. Preston v. United States, 923 F.2d 731, 734 (9th Cir.
6 1992); United States v. Conforte, 624 F.2d 869, 881 (9th Cir. 1980). In Liteky v. United States,
7 510 U.S. 540 (1994), the United States Supreme Court further explained the narrow basis for
8 recusal:

9 [J]udicial rulings alone almost never constitute a valid basis for a bias or partiality
10 motion. . . . [O]pinions formed by the judge on the basis of facts introduced or
11 events occurring in the course of the current proceedings, or of prior proceedings,
12 do not constitute a basis for a bias or partiality motion unless they display a deep
13 seated favoritism or antagonism that would make fair judgment impossible. Thus,
14 judicial remarks during the course of a trial that are critical or disapproving of, or
15 even hostile to, counsel, the parties, or their cases, ordinarily do not support a bias
16 or partiality challenge.

17 Id. at 555.

18 Plaintiff asserts two grounds for recusal: 1) what appears to be his disagreement with the
19 Court’s prior orders; and 2) his belief the Court has never provided relief to a plaintiff bringing a
20 claims involving a deed of trust. The Court DENIES the motion as to both grounds.

21 Turning to the first, a judge’s conduct in the context of pending judicial proceedings does
22 not constitute the requisite bias under 28 U.S.C. § 144 or § 455 if it is prompted solely by
23 information that the judge received in the context of the performance of her duties. Bias is
24 almost never established simply because the judge issued an adverse ruling. Plaintiff may
disagree with this Court’s rulings but that is a basis for appeal, not disqualification. The Court
notes that he has appealed some of this Court’s interlocutory decisions, but the Ninth Circuit has
refused to intervene. (See Dkt No. 135.)

1 As to other cases involving deeds of trust, the Court reviews each case on its merits and
2 applies the controlling law accordingly. If Plaintiff believes case law should change, this is a
3 matter for appeal and not recusal. Whether recusal is warranted is not a numbers game. Further,
4 without agreeing with Plaintiff's characterization of other cases involving deeds of trust, if those
5 Plaintiffs disagree about how this Court has applied the law to their claims, they are free to
6 appeal. The Court, however, knows of no reversal by the Ninth Circuit of its orders in prior deed
7 of trust cases.

8 CONCLUSION

9 The Court finds there is no reasonable basis for a voluntary recusal in this instance.
10 Accordingly, the Court **DENIES** Plaintiff's motion to recuse.

11 The clerk is ordered to provide copies of this order to all counsel.

12 Dated this 6th day of January, 2014.

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15 Marsha J. Pechman
16 Chief United States District Judge
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